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C O N F I D E N T I A L TASHKENT 000300

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TAGS: PHUM PGOV PREL UZ  
SUBJECT: HUMAN RIGHTS LAWYER IN UZBEKISTAN DESCRIBES  
SUSTAINED HARRASSMENT

REF: TASHKENT 144

Classified By: POLOFF R. FITZMAURICE FOR REASONS 1.4 (B, D)

¶1. (C) Summary: In between sessions of an international human rights conference in Tashkent devoted to Uzbekistan's abolition of the death penalty and adoption of what is referred to as the "habeas corpus" law, the Ambassador met with the Swiss Ambassador and a local human rights lawyer, who described the harassment he has faced while defending several high-profile human rights activists. Commenting on the government's recent reform efforts, the lawyer noted that Uzbekistan already has plenty of "beautifully-written laws," but the problem is a lack of implementation -- "you can see it, but you cannot eat it" is how he summarized the government's attitude towards reform. We believe that it is premature to write off the potential impact of the government's recent efforts and willingness to participate in an international human rights conference (septel). End summary.

AMBASSADOR MEETS WITH PROMINENT HUMAN RIGHTS LAWYER

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¶2. (C) In between sessions of an international human rights conference in Tashkent (cosponsored by a government-affiliated think tank and the Open Dialogue Project, an international non-governmental organization currently implementing a USAID-supported anti-torture program) devoted to Uzbekistan's abolition of the death penalty and adoption of a "habeas corpus" law (septel), the Ambassador and DCM met on March 5 with human rights lawyer Rusluddin Khamilov. The meeting was arranged and also attended by Swiss Ambassador Peter Burkhard, whose Embassy has hired Khamilov on numerous occasions to defend human rights activists through a legal defense fund. Khamilov, who has practiced law in Tashkent for 18 years, has defended several high-profile Uzbek human rights defenders, including Saidjahan Zaybiddinov, Gulbahor Turayeva, Satter Izraev, Abdulgapur Dadabayev, and Mutabar Tojiboyeva. Most recently, he has been hired again by the Swiss Embassy to defend dissident poet Yusuf Jumaev, who has been charged with

resisting arrest and insulting the dignity of the President and remains in pre-trial detention in Bukhara (reftel).

LAWYER THREATENED AFTER MEETING IMPRISONED ACTIVIST

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¶3. (C) Khamilov explained that he was hired by the Swiss Embassy in late December to serve as a lawyer for Yusuf Jumaev, but was initially refused access to his client on five or six separate occasions. On February 7, Khamilov was finally granted access to Jumaev after writing a complaint letter to the Bukhara province prosecutor's office. Although Uzbek law stipulates that defendants have the right to meet privately with their lawyers, Khamilov's meeting with Jumaev was observed by several prison officials. During the meeting, Jumaev told Khamilov that he had been beaten on the soles of his feet, and Khamilov reported seeing bruises. Jumaev also provided Khamilov a letter reportedly detailing how he had been abused in prison. Khamilov was then searched as he was leaving the prison, and the letter, as well as other personal documents, were seized. Khamilov was also asked by one of the guards if he had ever been to America. When Khamilov replied that he had not, the guard reportedly told him that maybe he would see America in "another life," which Khamilov interpreted as a threat against his life (Comment: In addition to being a threat, Burkhard took the statement to suggest that prison authorities thought Khamilov was working for the United States government. End comment.) Shortly after the incident, Khamilov sent a complaint letter to Deputy Internal Affairs Minister Alisher Sharafutdinov, but he had not received a response yet.

KHAMIROV REPORTS SUSTAINED HARRASSMENT OVER THE YEARS

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¶4. (C) Khamilov reported experiencing other forms of harassment over the years, which he believed was directly related to his defense of human rights activists. In 2004, authorities charged Khamilov with malpractice and threatened to take away his legal license, though the charges were eventually dropped. After the 2005 Andijon events (and his defense of Saidjahan Zaybiddinov, who was convicted in connection to those events), Khamilov reported being placed under round-the-clock surveillance for a year and a half. Khamilov also has been waiting three years to be granted an exit visa by authorities, a process that ordinarily should take less than a month (Comment: The government frequently withholds exit visas from human rights activists. Khamilov earlier was free to travel outside of Uzbekistan. End comment.) At one point, Khamilov and other like-minded lawyers tried to form their own public association, but their application for registration was denied by the Ministry of Justice.

KHAMIROV'S ROLE IN 2004 TASHKENT BOMBINGS CASE

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¶5. (C) Khamilov was also one of several lawyers who defended a group of individuals, including several women, who were accused of collaborating in a string of suicide bombings in Tashkent in March 2004. Khamilov noted several shortcomings in the case, including that several of the defendants were first detained as witnesses in the case before being charged (a common prosecutorial tactic in Uzbekistan). He also alleged that one of the supposed suicide bombers had been beaten to death by police before the bombings had occurred. In total, Khamilov said that 14 individuals were convicted and received between nine and ten years' imprisonment. Khamilov reported that the individuals have not been amnestied and remain imprisoned.

LAWYER SKEPTICAL OF LEGAL REFORMS AND RELATED CONFERENCE

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¶6. (C) Khamilov was skeptical of recent moves by the Uzbek government to reform its laws, such as transferring the power to issue arrest warrants from prosecutors to the judiciary

(the so-called "habeas corpus" law), and dismissed the participation of government officials at Open Dialogue's human rights conference. He noted that Uzbekistan already has plenty of "beautifully written laws," but the main problem was implementation. He remained unconvinced that the Uzbek government was serious about reform, and believed its officials were participating in the conference for public relations purposes.

#### AMBASSADOR RAISES LAWYER'S CASE

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¶ 7. (C) After the meeting with Khamilov on March 5, the Ambassador attended the Open Dialogue conference, where he took the opportunity to raise Khamilov's allegations with Deputy Minister of Internal Affairs Alisher Sharafutdinov. Sharafutdinov knew Khamilov by name and was aware of the allegations, but questioned his account of events in Bukhara.

Sharafutdinov tracked down a senior official of the Prison Directorate (GUIN), who was also attending the conference; this GUIN official told the Ambassador that Khamilov was attempting to smuggle out a list of inmates at the prison given to him by Jumaev. Sharafutdinov argued that Khamilov's action exceeded his rights as a lawyer and that it was within the right of authorities to therefore confiscate the document (Comment: Sharafutdinov, however, failed to explain why Khamilov's other documents were also confiscated. End comment.) The Ambassador also inquired whether Sharafutdinov would be willing to meet with Khamilov and other lawyers handling human rights cases. Sharafutdinov appeared noncommittal, saying it would be more appropriate for

Khamilov to meet with the Prosecutor General, but did not dismiss the suggestion.

#### RIGHTS ACTIVIST QUESTIONS JUMAEV'S ALLEGATIONS OF TORTURE

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¶ 8. (C) On February 12, poloff attended a debriefing given by Bukhara-based human rights activist and medical doctor Vohid Karimov, who participated in a monitoring of the prison where Jumaev is being held on February 9. Karimov found conditions at the prison to be satisfactory and saw no evidence that prisoners were being mistreated (Comment: It may be difficult to believe that a medical doctor would not find any problems at a jail in the former Soviet Union, especially one in Uzbekistan, but a Soviet-trained doctor might have different standards of mistreatment. End comment.) In the company of prison officials, he also spoke with Jumaev, who denied being tortured or otherwise mistreated. Karimov, knowing full well that Jumaev's statement could have been influenced by the presence of prison authorities, also examined Jumaev's body,

and found no evidence that he had been abused. Under the auspices of Freedom House and the Open Dialogue Project, Karimov had conducted prison visits in previous years, but this was the first time his organization had been granted access to a prison since the 2005 Andijon events. Following the visit to the Bukhara prison, Karimov was reportedly told that his organization would be allowed to visit other prisons in the near future.

#### SWISS EMBASSY CUTTING BACK ITS LEGAL AID PROGRAM

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¶ 9. (C) On March 4, Human Rights Watch Country Director Igor Vorontsov told poloff that during a recent meeting with Swiss Ambassador Burkhard, he was told that the Swiss Embassy was planning to significantly curtail its legal assistance fund in Uzbekistan this year. The fund had previously provided lawyers to cover about a hundred cases a year, but this number would now be greatly reduced. From now on, the Swiss Embassy would also only work with three lawyers, including Khamilov, whom it judged to be the most competent. Vorontsov was told that the decision was due to a number of factors, including budget cutbacks, the elimination of a Swiss-national position at the Embassy (leaving Ambassador Burkhard as its sole expatriate staff member), and the belief

that the fund would be more effective if it focused on a select number of human rights cases where legal assistance was truly needed and could do the most good.

COMMENT

¶10. (C) It is difficult to square the different accounts provided by Khamilov and Karimov regarding the treatment of Yusuf Jumaev in prison. On one hand, Jumaev and his family have a history of exaggerating details surrounding the case, but Khamilov's claim that he had seen bruises on Jumaev lends credibility to the allegations of abuse. On the other hand, we do not suspect Karimov of being a government stooge and do not believe that his account of satisfactory prison conditions should be dismissed. Perhaps the truth lies somewhere in the middle, but we will continue to carefully monitor Jumaev's treatment in detention.

¶11. (C) Khamilov correctly recognizes that the government's main shortcoming is not an unwillingness to reform its laws on paper, but a failure to fully implement those reforms and pro-actively uphold the rule of law. Given his long years navigating Uzbekistan's legal system and defending human rights activists (often unsuccessfully), it is no wonder that he is cynical about the government's intentions. Nevertheless, we think it is important not to write off the government's legal reforms and participation in the Open Dialogue human rights conference as a publicity stunt. As the government enters what is probably President Karimov's

last term, engagement on these issues is valuable in and of itself. We will continue to push the Uzbeks to fully implement their reforms, and will pursue their evident interest in getting training for law enforcement officials. We also will continue to encourage Deputy Internal Affairs Minister Sharafutdinov to meet with Khamilov and other lawyers as a sign that the government is serious about improving its human rights record.

¶12. (SBU) Using an Uzbek proverb quoted by Khamilov which summarized his cynical view of government legal reform, the Ambassador publicly reminded participants of the Open Dialogue Conference on March 6 that reform needed to be felt on the ground in order to assuage the skepticism of human rights lawyers whose view of reform was "you can see it, but you cannot eat it."

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